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Cont.

multiple access, wavelet division multiple access, orthogonal division multiple access, and quasi-orthogonal division multiple access.

REMARKS

This response is provided to the Office Action of November 19th, 2003, wherein claims 1-3, 6, 7, 17, 18, 20-24, 27, 32-35, 43, 47-49 and 51 were rejected, while claims 8-16, 19, 25, 26, 28, 29-31, 36-42, 44, 45, 46 and 50 were merely objected to as being dependent on unpatentable base claims. Applicant would like to thank the Examiner for the identification of the patentable subject matter.

With this response, Applicant offers the following remarks traversing the basis for the rejections and objections to the claims. Accordingly, in view of the following remarks, favorable reconsideration of the pending application is respectfully requested.

§112 Rejection of Claims 6, 27 and 51.

In paragraphs 1 and 2 of the Action, the Office rejects claims 6, 27 and 51 as failing to properly enable claim elements, pursuant to 35 USC §112, first paragraph. In particular, the claims were rejected for failing to detail the manner in which wavelength division multiple access and wavelet division multiple access pertain to the invention. In response, Applicant respectfully traverses the rejection of these claims.

Applicant respectfully submits that WMDA and wavelet division multiple access are disclosed as appropriate means of communication between a base station and a mobile station. That is, any of a number of multiple access protocols may well be employed including, WDMA and wavelet division multiple access, in combination with the selection of whether to apply spatial multiplexing techniques (see, e.g., page 3 line 29, through page 4, line 5, and page 8, lines 1-13; and Fig. 1). The details of practicing such multiple access protocols is not necessary to understand the claimed invention, i.e., the select combination of a given multiple access protocol with spatial multiplexing techniques.

In this regard, Applicant respectfully submits that the elements of claim 6, 27 and 51 are appropriately supported, and are adequately enabled by the specification. Accordingly, Applicant respectfully requests that the §112, first paragraph rejections be withdrawn.

§102(b) Rejections

In **paragraphs 3 and 4** of the Action, the Office rejects claims 1-3, 6, 7, 17, 18, 20-24, 27, 32-35, 43, 47-49 and 51 as being anticipated by a patent issued to Paulraj et al. under 35 USC §102(b). In response, Applicant respectfully traverses the rejection of these claims.

At the onset, Applicant notes that it is not clear from the Action which Paulraj reference is relied upon. In a follow-up telephone conversation with the Examiner, it was clarified that the USP 6,351,499 was relied upon in making the rejection.

Applicant respectfully submits that regardless of which Paulraj reference is relied upon, neither are appropriate for a §102(b) rejection. The '399 patent was co-pending and is commonly assigned to the assignee of the above captioned application. The other Paulraj reference (6,035,290), also commonly assigned to the assignee of the above captioned application, had not issued more than 1 year prior to the priority date of this application.

Thus, without regard to the actual disclosure of the Paulraj references, Applicant respectfully submits that neither are proper §102(b) references. Accordingly, Applicant respectfully requests that the §102(b) rejection of claims 1-3, 6, 7, 17, 18, 20-24, 27, 32-35, 43, 47-49 and 51 be withdrawn.

CONCLUSION

In view of the foregoing remarks and the proposed amendments, Applicant believes the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,

Robert W. Heath, Jr., et al

Date: December 31, 2003

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on December 31st, 2003

Michael A. Proksch
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